



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 199800325

Date: August 2, 2002

Comments Due: August 31, 2002

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act to discharge dredged or fill material into waters of the United States, including wetlands, (waters) for residential construction as shown in the attached drawings.

APPLICANT: Mark Nelson, Haleemore, LLC, 12211 Pear Lane, Wilton, California
95693-9677

LOCATION: The proposed Sleepy Hollow Subdivision, Unit 2 (Formerly Calvine Meadows) project is just south of Calvine Road, Section 22, Township 7 North, Range 6 East, MDB&M, in Elk Grove, Sacramento County, California. See attached vicinity map.

PROJECT DESCRIPTION: The project would fill 0.77 acre of waters, including a 0.20-acre pond, 0.11 acre of vernal pool, 0.45 acre of seasonal marsh, and 0.01 acre of seasonal wetlands, to construct 20 residences. There will also be temporary impacts to 0.65 acre of Laguna Creek Tributary (LCT). A 1.10-acre pond is proposed to be avoided and preserved on site.

Construction would include trenching across, excavating, widening and realigning the LCT for installation of utilities and flood control, including construction of an 8-acre storm water detention basin. The applicant has stated the flood control work is necessary for consistency with Sacramento County's Upper Laguna Creek Drainage Master Plan and that each of the lots will be approximately 2 acres in size, consistent with the AR-2 zoning of the area. Figure 3 shows the proposed project configuration.

A delineation of waters of the U.S. was verified by the Corps in 1998. A total of 2.52 acres of waters of the United States was identified on the site, including 0.11 acre of vernal pool, 0.45 acre of seasonal marsh, 0.01 acre of seasonal wetland, 0.65 acre of seasonal creek/LCT, and 1.30 acres of stock ponds. Figure 2 shows the existing waters on the project site.

The applicant has stated the proposed detention basin is a regional flood control basin, to be constructed on the north side of LCT to serve development in southern Sacramento County and the City of Elk Grove. High flows would be diverted into the basin from LCT over a weir. Water from the detention basin will return to the LCT through via an outfall pipe.

The applicant has stated the required LCT invert would be approximately 6-7 feet below the existing ground level in order to provide 6 feet of flow depth. The finished channel width will be approximately 90 feet through the project area, with 4:1 side slopes. Separate parcels are proposed to be created for the detention pond and the new LCT. The applicant has stated Sacramento County will assume ownership of these two parcels upon completion of project construction. The attached Figure 3 shows the proposed project features.

All of the vernal pools on the project site (0.11 acre) will be impacted by grading activities and excavation of the 8-acre detention pond. The seasonal marsh (0.14 acre) located northeast of the large pond will also be permanently impacted by grading. Although this area was shown as seasonal marsh in the wetland delineation report, the area is currently dominated by blackberry shrubs and wild rose. Excavation to deepen and widen LCT will result in the loss of seasonal marsh habitat (0.31 acre) along the creek channel and railroad tracks, and will temporarily impact the entire channel (0.65 acre).

The smaller of two ponds (0.20 acre) will be filled during grading activities and installation of underground utilities. This pond is rectangular in shape with relatively steep banks. It is unvegetated except for a band of blackberry shrubs along the southern boundary.

The larger of the two ponds (1.10 acres) is surrounded by both native and non-native trees and shrubs including Fremont cottonwood, valley oak, scarlet firethorn, white mulberry, and bottlebrush. This pond is proposed to be preserved and incorporated into two of the residential lots. The applicant is proposing deed restrictions on these two lots which state that the pond is a water of the United States, and that no fill may be placed into the pond without a permit from the U.S. Army Corps of Engineers.

The applicant has stated that after channelizing LCT for flood control purposes, the estimated acreage of the new creek channel would be 1.29 acres, an increase of 0.64 acre from the existing condition. Because LCT may be subject to periodic maintenance activities in the future (by Sacramento County or the City of Elk Grove), mitigation for the 0.65 acre of temporary impacts is proposed by the applicant.

The applicant proposes to mitigate for impacts to 0.11 acre of potential vernal pool invertebrate habitat via purchase of mitigation credits at an approved mitigation bank, in accordance with the U.S. Fish and Wildlife Service's Programmatic Section 7 Consultation for impacts to listed vernal pool invertebrates. Mitigation for impacts to the remaining 1.31 acres of waters is proposed to be a 1:1 ratio through the purchase of credits at an approved mitigation bank. This includes 0.20 acre pond (open water), 0.45 acre seasonal marsh, 0.01 acre seasonal wetland, and 0.65 acre seasonal creek (to mitigate for temporary impacts due to excavation activities). Wetland mitigation bank credits are proposed to be purchased prior to filling the waters on the property.

AREA DESCRIPTION: The project site contains a vacant residence and associated outbuildings, and has traditionally been used for cattle grazing. Sleepy Hollow Unit 1 is located to the east of the project site and consists of single family residential homes on 2-acre parcels. The surrounding land use is primarily rural residential.

ADDITIONAL INFORMATION:

Endangered or Threatened Species: In a previous permit action, the U.S. Fish and Wildlife Service stated in a September 24, 1998, letter that the project may affect Federally-list giant garter snake (*Thamnophis gigas*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), and slender Orcutt grass (*Orcuttia tenuis*). The applicant has conducted surveys which indicate no elderberries or slender Orcutt grass are present on the site. Construction of the project will impact 0.11 acre of potential habitat for the listed vernal pool invertebrates through grading for residential development and excavation for an 8-acre storm water detention pond. Potential giant garter snake (GGS) (*Thamnophis gigas*) habitat appears to be present and this site is hydrologically connected to occurrences of GGS downstream. The Corps has initiated consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for potential impacts to these species.

Cultural Resources: The applicant has stated that no cultural resources have been identified on the project site and if during grading activities previously unknown cultural resources are unearthed, work will stop until such resources can be evaluated by a qualified archaeologist, and appropriate state and federal laws are complied with. However, in a August 11, 1998, letter, the State Historic Preservation Office (SHPO) commented on a previous pre-construction notification for work on this site. The SHPO stated that there is no documentation to support the applicant's determination that no historic properties located within the site.

Previous Permit Information: A previous project for this site was permitted under Nationwide Permit 26 (199000001). However, that authorization expired and the project was never constructed. A different applicant applied to permanently impact 0.52 acre and temporarily impact 0.65 acre of LCT, with construction of 0.41 acre of seasonal wetland mitigation on-site. That application was subsequently withdrawn on January 4, 1999.

Alternatives: No alternatives information has been provided by the applicant.

Other local, state, and federal permits: The applicant is concurrently applying for Clean Water Act Section 401 certification with the Regional Water Quality Control Board and a 1603 Agreement with the California Department of Fish and Game. The applicant has stated that a tentative map was also approved by the City of Elk Grove in December 2001 (EG-01-126).

The District Engineer has made these determinations based on information provided by the applicant and on the Corps' preliminary investigation.

Interested parties are invited to submit written comments on or before August 31, 2002. Personal information in comment letters is subject to release to the public through the Freedom of Information Act. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice may also be obtained through our web-site at <http://www.spk.usace.army.mil/cespk-co/regulatory> . If additional information is required, please applicant Mark Nelson, with Haleemore LLC, at 916-687-7108, his agent Ginger Fodge, with Gibson and Skordal, at 916-569-1830, or Justin Cutler, at the letterhead address, e-mail: Justin.Cutler@usace.army.mil, or telephone 916-557-5258.

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

Attachments: 4 Drawings